

CONGRESSIONAL ACTIVITY TO ADDRESS THE ENERGY CRISIS

CHRONOLOGY HIGHLIGHTS

[prepared by office of Reps. Anna G. Eshoo and Zoe Lofgren]

2000

June 14, 2000 – First blackout of the electricity crisis and first blackout in California since World War II.

August 2, 2000 – San Diego Gas & Electric Company (SDG&E) files a complaint under Rule 206 under the *Federal Power Act* against western power suppliers, alleging that market prices are “unjust and unreasonable.” Calls on the Federal Energy Regulatory Commission (FERC) to impose price limits.

November 1, 2000 – FERC reports that wholesale electricity prices have been and have the potential to continue to be “unjust and unreasonable.”

2001

January 19, 2001—25 members of the California delegation write to FERC to urge it to address the high price of electricity in California.

January 20, 2001—Representatives Duncan Hunter and Anna G. Eshoo introduce H.R. 238 to amend the *Department of Energy Authorization Act* to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market. A bipartisan group of thirty-two Western Members cosponsor the bill. Senate companion (S.26) introduced by Senators Dianne Feinstein and Barbara Boxer on January 22, 2001.

January 30, 2001 – Representative Bob Filner introduces H.R. 268, the California Electricity Consumers Relief Act, that requires FERC to order refunds retroactive to the beginning of the crisis on June 1, 2000.

March 2, 2001 – Representatives Hunter and Eshoo write to House Energy and Commerce Committee Chairman Billy Tauzin and House Energy and Air Quality Subcommittee Chairman Joe Barton to call for a hearing on the Western energy crisis and H.R. 238.

March 6, 2001 – House Subcommittee on Energy and Air Quality holds hearing – Congressional Perspectives on Electricity Markets in California and the West and National Energy Policy.

March 20 and 22, 2001 – House Subcommittee on Energy and Air Quality holds hearing – “Electricity Markets: California.”

March 22, 2001 – House Democrats write to President Bush to urge him to fill FERC vacancies, to call on FERC to investigate and mitigate high electricity prices in California, and to replace FERC Chair Curtis Hebert. No reply is received from the President.

March 23, 2001 – California Democrats on the House Energy and Commerce Committee respond to the majority’s request for comments on proposed legislation to “fix” problems in the Western energy market. Members note the omission of any provision to address the excessively high cost of electricity. No formal reply is received.

March 30, 2001 – Democratic Members from California, Washington, and Oregon write to President Bush to urge him to address the high cost of wholesale electricity and “investigate recent allegations of overcharges” in the Western energy market. No substantive reply is received from the President.

April 4, 2001 – H.R. 1468 is introduced with the support of 30 California Democrats. The bill requires the Federal Energy Regulatory Commission to impose cost-of-service pricing in the Western electricity market and to order the refund of overcharges.

April 10, 2001 – U.S. Secretary of Energy Spencer Abraham writes to Members of Congress to update them on the Administration's efforts to address the energy crisis. The Secretary discounts the crisis as "a supply crisis" and states the Administration's opposition to price mitigation.

April 16, 2001 – California Democrats on the House Energy and Commerce Committee write to FERC Commissioner Linda K. Breathitt to urge her to support cost-of-service pricing in the West.

April 26, 2001—FERC issues an order establishing a price mitigation plan during stage 1, 2, and 3 power emergencies. The order sets the mitigated price on the most inefficient, polluting generator in the state. Generators can exceed the mitigated price if they justify their costs.

May 1 and 3, 2001 – House Energy and Air Quality Subcommittee holds hearing on H.R. 1647, *The Electricity Emergency Act of 2001* – a bill with the purported purpose of solving the energy crisis by increasing the supply of electricity. Among other proposals, the bill calls for the suspension of federal environmental laws that might diminish energy production. California Governor Gray Davis and the California Energy Commission and Air Resources Board report that environmental protection laws are not an impediment to energy production. The bill does not address runaway prices.

May 1, 2001 – Members of the California Republican Delegation meet with Vice President Dick Cheney on the energy crisis. California Democrats are not invited.

May 3, 2001—California Democratic Congressional Delegation Chair Sam Farr writes Vice President Cheney criticizing him for excluding California Democrats from his May 1, 2001 meeting with California Republicans. Rep. Farr requests a meeting with the Vice President.

May 4, 2001— 44 Democratic Members of Congress write to Secretary Abraham to use his authority to address price gouging in the West. Reply reiterating the Administration's opposition to "price caps" mailed July 2, 2001.

May 17, 2001— Vice President Cheney and the National Energy Policy Development Group (NEPDG) submit their recommendations to President Bush. The recommendations do not include anything to address runaway prices in the West. About the Western energy crisis, the NEPDG writes, "Though weather conditions and design flaws in California's electricity restructuring plan contributed, the California electricity crisis is at heart a supply crisis" (National Energy Policy, page 1-3). The report blames California for not building enough generating plants, "there are no short-term solutions to long-term neglect."

May 25, 2001—84 Democratic Members of the House write President Bush to request that he back a price mitigation amendment to H.R. 1647 based on H.R. 1468. No reply is received from the President.

May 25, 2001 – Ten respected economists, including Alfred Kahn, architect of deregulation in the airline industry, write to President Bush and the Congressional leadership to express support for cost-of-service based rates for electricity in the western market.

June 2, 2001 – Rep. Eshoo delivers the Democratic response to the President's weekly radio address on the energy crisis.

June 7, 2001— 21 Western Democrats write to FERC Chairman Curtis Hebert to request the opportunity to testify before the Commission in a public meeting.

June 12, 2001—California Democratic Congressional Delegation meets with Vice President Cheney about the energy crisis. Vice President promises no intervention to alleviate high prices.

June 13, 2001 – 29 members of the California Democratic Congressional Delegation write to Vice President Cheney following a *CNN* report that the White House and Congressional Republicans funded an advertising campaign to oppose price mitigation in the West.

June 19, 2001— FERC expands its April 26th order to cover the entire West during all hours of operation, requires all generators to make their power available, and continues to base the mitigated price on the least efficient generator. FERC determines that refunds are owed and orders administrative hearings to determine the amount.

June 19, 2001 – Members of the California and Western delegations testify before the House Rules Committee in support of amendments to H.R. 2246, the *Fiscal Year 2001 Supplemental Appropriations bill*. The amendments would require FERC to impose cost-of-service pricing in the West and order electricity generators to pay refunds of rates that are “unjust and unreasonable.” The Rules Committee, chaired by California Republican David Dreier, refuses to allow the consideration of these amendments.

June 20, 2001— Representative Nancy Pelosi attempts to bring a cost-of-service amendment to H.R. 2246 to the floor. Republicans block it on a procedural objection.

June 20, 2001— Governor Gray Davis, with many Members of the California Congressional Delegation in attendance, testifies before the Senate Governmental Affairs Committee about FERC’s activities in the Western energy market.

June 30, 2001 – California Democratic Congressional Delegation writes to FERC Chairman Curtis Hebert about 32 important California-related cases that were pending before the Commission for an extended period of time. Reply dated August 28, 2001.

July 17 and 18, 2001— House Energy and Commerce Committee holds markup of the Committee Print, *Energy Advancement and Conservation Act*. Committee defeats two amendments offered by the California Democrats on the Committee to impose cost-of-service pricing and require the refund of overcharges.

August 1, 2001 – Floor consideration of H.R. 4, the *Securing America’s Future Energy*). House defeats Rep. Waxman’s cost-of-service pricing amendment by 157-274. The Rules Committee refuses to make in order an amendment offered by Representatives Eshoo and Harman to require refunds of overcharges.

October 29, 2001 – Rep. Eshoo testifies before a FERC technical conference on behalf of the California Democratic Congressional Delegation. Requests that the Commission’s price mitigation plan remain in force until the market has stabilized. Asks the Commission to act quickly in ordering refunds.

November 27, 2001 – California Democrats on the House Energy and Commerce Committee write to Energy and Air Quality Subcommittee Chairman Barton to urge him to address the problem of market power in energy markets within draft electricity restructuring legislation. No reply is received.

2002

February 14, 2002 –Members of the California Delegation write to House Energy and Commerce Committee Chairman Tauzin to urge him to investigate and hold hearings on the business conduct and pricing practices of Enron during the Western energy crisis.

May 8, 2002 – The California Democratic Congressional Delegation and 4 Northwestern Democrats write Chairman Tauzin, urging him to open an investigation and to hold hearings on market manipulation in the Western energy market after FERC posts internal Enron memos detailing how the company artificially inflated prices. Memos indicate that other companies adopted the same practices that Enron did.

May 9, 2002 – The Securities and Exchange Commission announces investigation into the “round-trip” trades between Dynegy, an energy marketer that sold into the California market, and CMS Energy of Dearborn, Michigan.

May 15-16, 2002 – Senate Consumer Affairs, Foreign Commerce, & Tourism Subcommittee holds hearing on Enron memos entitled, “Examining Enron: Developments Regarding Electricity Price Manipulation in California.” Rep. Eshoo and Harman attend. The Senate Energy and Natural Resources Committee holds a similar hearing.

June 5, 2002 – California Democrats on the House Energy and Commerce Committee lead 75 House Members, including Minority Leader Gephardt, in a letter House Speaker Hastert and Energy and Commerce Chairman Tauzin to ask for an investigation energy suppliers.

June 5, 2002 – 31 California Democrats write to FERC Chairman Patrick Wood to urge him to extend FERC’s price mitigation plan for the West beyond September 30, 2002 when it is due to expire.

June 18, 2002 – The General Accounting office issues a report that exposes weaknesses in FERC’s ability to regulate energy markets. The report says, “FERC is not adequately performing the oversight that is needed to ensure that the price produced by [energy] markets are just and reasonable and therefore, it is not fulfilling its regulatory mandate.”

June 19, 2002 – California Democrats on the House Energy and Commerce Committee write to Chairman Tauzin again to urge a hearing and investigations, noting that the GAO report indicates that FERC is not up to doing the job on its own.

June 20, 2002 – *Congress Daily AM* reports, “House Republicans agreed [June 19, 2002] to hold a hearing to examine whether trading firms such as Enron Corp., may have illegally manipulated electricity prices in the West.” The article continued, “The hearing would serve as a spring board for a broader inquiry into price manipulation and FERC’s ability to oversee the Market [Energy and Commerce Committee Chairman] Tauzin said.”

July 25, 2002 – California Democrats on the House Energy and Commerce Committee write to Chairman Tauzin again to urge a hearing and investigations, noting that he has not fulfilled his public promise a month earlier to hold hearings and investigate energy transactions in the West. The letter notes that this work should be completed before Chairman moves ahead with the consideration of electricity provisions in the House-Senate Conference Committee on H.R. 4, the comprehensive energy bill. Finally, the letter asks for access to documents that Committee obtained from FERC. The documents had been compiled by FERC as a part of an investigation that it initiated following inquiries from U.S. Senators.

July 26, 2002 – Chairman Tauzin responds to the Western Representatives May 8, 2002 letter with a recitation of the Committee’s previous work on the Western energy crisis in 2001. The Chairman notes that he requested and received the documents he received from the Federal Energy Regulatory Commission (FERC), which were being reviewed by majority and minority staffs. However, he does not explain why the Committee has not held a hearing since the Enron “smoking gun” memos were made public. The Chairman does not respond to the request for access to the FERC documents.

August 21, 2002 – California Democrats on the House Energy and Commerce Committee respond to Chairman Tauzin’s letter, and again ask for a serious, independent investigation of the Western Energy market. The letter reiterates the request for access to FERC documents obtained by the Committee.

2003

January 9, 2003 -- The California Democratic Congressional Delegation writes to the Chairman of the Federal Regulatory Energy Commission (FERC) Patrick Wood, III, to reject the findings of Administrative Law Judge Bruce Birchman (Refund Case EL00-95-045) because he recommended that energy generators who supplied power to California during the 2000-2001 energy crisis owe far less than the \$8.9 billion that California was seeking.

March 3, 2003 - The California parties (including the Governor and the Attorney General of California, the California Public Utilities Commission, and the state's major independently-owned utilities) present to the Commission more than 1,000 pages of evidence of widespread market power abuse and market manipulation. The California parties had to go to the Ninth Circuit Court of Appeals to force the Commission to allow them to discover and present this evidence.

March 26, 2003 - The Federal Energy Regulatory Commission (FERC) released a detailed report on the California Energy crisis, concluding that there was widespread manipulation in the California energy market. However, FERC did not propose increasing refunds substantially to reflect the gaming that took place. In particular, FERC continued to insist that the State of California could not receive refunds on the short-term electricity purchases it made to keep the lights on.

April 2, 2003 - During the Energy and Commerce Committee markup of the *Energy Policy Act* (H.R. 6) Rep. Eshoo offers an amendment to increase the refunds for California consumers by \$5 billion. The amendment simply required the Federal Energy Regulatory Commission (FERC) to refund all "unjust and unreasonable" charges the State of California incurred for the *short-term* energy purchases it made to keep the lights on during the California energy crisis in 2001. The amendment failed on a vote of 21 to 30 in the Energy and Commerce Committee. Rep. Eshoo, supported by the California Democratic Congressional Delegation, attempts to bring the amendment to the floor for consideration several days later but not one California Republican would support the amendment and it wasn't considered.

September 25, 2003 - 31 Members of the California Democratic Congressional Delegation write to FERC Chairman Wood reiterating previous concerns that FERC is having a poor record in defending the interests of California consumers, lacks an effective price mitigation plan, refuses to order the renegotiation of unjust and unreasonable long-term contracts, and has thus far short-changed consumers in the refund proceedings.

2004

May 6, 2004 - An *amicus* brief is filed at the 9th Circuit Court regarding FERC and California energy refunds signed by 37 parties: California's 2 Senators, California's 33 Democratic House Members, State Senate President Pro Tem John Burton, and State Assembly Speaker Fabian Nunez. The brief supports the California parties' lawsuit that FERC follow the Court's order to use the existing Remedy Proceeding - a forum subject to judicial review - to collect evidence of energy market manipulation, rather than non-public investigatory proceedings that shut CA consumers out of the process.

May 11, 2004 - California Democratic Congressional Delegation Chair Lofgren and California Democrats on the House Energy and Commerce Committee write to Governor Schwarzenegger to reiterate again that securing the billions in energy refunds needs to be a part of his federal agenda. This correspondence followed up on the Delegation's October 15, 2003 and February 26, 2004 letters to the Governor and recommendations made during the two gatherings the Governor held with the California Congressional Delegation on October 29, 2003 and February 24, 2004.

June 2, 2004 - CBS News broadcasts tapes unearthed by Snohomish Public Utility District which capture Enron traders bragging in profane terms about their effort to manipulate the Western Energy Market.

June 14, 2004 - Western Reps. Inslee, DeFazio and Filner file an amendment to H.R. 4503, the Energy Policy Act, to require the Federal Energy Regulatory Commission to retroactively revoke the authority of Enron to sell electricity at market based rates, allowing utilities to get relief from their long-term contracts, requires Enron and its successors to refund to purchasers who were gouged by Enron, and prohibits Enron from collecting penalties from utilities that refuse to honor their fraudulent contracts. The Rules Committee denies floor consideration of the amendment.

June 14, 2004 – The California Democratic Congressional Delegation sends a letter to FERC in the wake of the Enron tapes being discovered that requests FERC to meet with the Delegation to update Members on the actions FERC will take in response to the discovery of the Enron tapes.

June 15, 2004 – The House defeats motion to recommit H.R. 4305, the *Energy Policy Act of 2004*, 192-230 (Roll Call Vote 240). The motion would have added language to the bill that will enable California consumers to equitable refunds.

June 24, 2004 -- Reps. Eshoo and Lofgren ask the House Rules Committee to allow them to offer an amendment to H.R. 4614, the *Energy and Water Development Appropriations Act for Fiscal Year 2005*. The amendment would have expanded the refund time period in the West, involved the state public utility commissions in FERC's settlement negotiations, and required the FERC to release documents and evidence concerning market manipulation to the public. The Rules Committee denies the request to make the amendment in order for the floor.

June 25, 2004 – The House votes whether or not to allow the Eshoo-Lofgren amendment to come to the floor during debate on H.R. 4614, the *Energy and Water Development Appropriations Act for Fiscal Year 2005*. The effort fails 182 to 209 (Roll Call Vote 320).

June 25, 2004 – The House unanimously agrees to a narrower amendment offered jointly by West Coast Reps Eshoo, DeFazio, and Inslee. The amendment requires the Federal Energy Regulatory Commission (FERC) to publicly release documents that it has acquired in key investigations and proceedings related to the market manipulation activities of Enron and other power producers.